

~~W-6~~
~~ZBA~~
Minutes Summary


Date: June 3, 2003

Time: 7:00 p.m.


Location: Village Board Room
200 South Hough Street
Barrington, Illinois

In Attendance: Patricia Pokorski, Chair, Zoning Board of Appeals
Ralph Bartlett, ZBA
Robert Henehan, ZBA
Ryan Julian, ZBA
Victoria Perille, ZBA
Peg Moston, ZBA

Staff Members: Keith Sbiral, Senior Planner
Jeff O'Brien, Planner/Zoning Coordinator

 Chair Patricia Pokorski called the meeting to order at 7 p.m. Roll Call noted the following Patricia Pokorski, Chair, present; Ralph Bartlett, present; Robert Henehan, present; Ryan Julian present; Bruce Kramer, absent; Victoria Perille, present; and Peg Moston, present. There being a quorum established; the meeting proceeded.

Ms. Pokorski swore in all parties that will testify at the hearing. Ms. Pokorski explained the procedures of the hearing before the Zoning Board of Appeals.

 There was no old business discussed.

Public Hearings.

ZBA 03-03 AT&T Wireless Cellular Tower (42 East Dundee Road) Special Use

The public hearing was properly noticed and opened. Mr. James Kopeny, 655 First Bank Drive, Palatine, presented for the petitioner. Mr. Kopeny represents Site Acquisition Consultants, and presented background and history of the proposed projects.

Mr. Kopeny noted that the site at Beese Park is an approved site in the Zoning Ordinance.

Ms. Pokorski stated the correct pronunciation of Beese Park.

Mr. Kopeny handed out a revised project summary and project history. He noted that the project is not based solely on financial matters. He noted that the location will not be obtrusive. He also noted that the location at the water tank would be far more obtrusive and would be placed at least 150 feet from the base of the water tank tower.

Mr. Glen Bober, 55 First Bank Drive, Site Acquisition Consultants, noted that a few years ago several carriers wanted to come in to Barrington. He noted that there was no coverage on the south end of Barrington. Specifically the corner of Dundee and Barrington Road has little or no coverage. Mr. Bober continued that AT&T went through the ARC process and the proposed "Horse Stable" became excessively expensive.

Mr. Bober noted that there was also excessive vegetation plans and landscape plans that would be required. Mr. Bober noted that the CBI study noted that the water tank is not strong enough for four carriers. Mr. Bober noted that they did not want to take on the liability of the water tank.

Mr. Bober noted that the costs of the project will be in excess of \$750,000. Mr. Bober noted that they met with the Village President and Village Manager and developed the alternative site at the Park District.

Mr. Kopeny noted that they are still in negotiations in a lease with the village. He noted that tremendous amounts of time and money have been spent on this process. He stated that this is a good site and good location; he noted the lease is complete, and that is why they are requesting a special use.

Mr. Kopeny noted that the siting policy was approved prior to the tower being built in 1997. He noted that the Special Use ordinance notes that the number of carriers would be limited by the facility. He noted that they are making the facility more secure and less of an eyesore. He noted that the facility will be alarmed.

Mr. Kopeny testified that the trees will hide the majority of the cellular tower. He stated that from a distance people will see only a very minimal amount of the tower. He noted that the top of the tower will look like a flag pole. Mr. Kopeny testified that the neighbors are in favor of the location. He noted that he discussed the tower with Inverness and they had no comment on the tower.

Jeff O'Brien presented the staff report. He stated that the site on the water tower was approved by both the Plan Commission and the Architectural Review Commission. He stated that the special use has been acted upon and that that co-location is a key intent in the tower policy.

Mr. O'Brien noted that a technical review was completed in April. He stated that the site was not appropriate due to the previously approved site. He stated that the cost of the improvements should not be the primary issue for the consideration. He noted that staff felt that additional sites should not be approved prior to the location being fully built out.

Mr. O'Brien noted that several of the special use standards are not met. Staff referred to the staff report noting findings in each standard that staff does not feel is met.

Mr. O'Brien entered additional staff suggested findings of fact into the record. Mr. O'Brien read the six findings into the official record.

Staff recommends the Zoning Board of Appeals adopt the Standards for Special Use findings as outlined in the staff report, as well as the six additional findings listed below, as the findings of the Zoning Board of Appeals.

Additional findings of fact:

1. The intent of the Village of Barrington Antenna Siting Policy is to reduce the number of antenna tower locations, by requiring co-location of antennas where possible.
2. The Village of Barrington has implemented co-location at both the Public Works location and the 511 Lake Zurich Road water tank location.
3. The Village of Barrington has already approved a special use for a multiple-antenna site at the South Barrington Road water tank. The special use has been acted upon by the construction of the water tank.
4. The petitioner has failed to provide verifiable evidence that a lack of service will exist if, in place of the petitioner proposed Beese Park location, the existing approved South Barrington Road water tank antenna site is utilized.
5. The petitioner has failed to provide verifiable evidence of any cost difference for leasing and infrastructure at the existing approved South Barrington Road water tank site and the proposed Beese Park site.
6. All infrastructure costs at the existing approved South Barrington Road water tank site, beyond the petitioner's share, are recapturable.

Additionally, staff recommends that the Zoning Board of Appeals approve a motion to authorize the Chairperson to include all of the findings of the Zoning Board of Appeals in a written recommendation of denial of ZBA 03-03 to the Board of Trustees.

Mr. O'Brien asked for any questions or comments.

Ms. Pokorski stated that she has many questions. She asked why the petitioner needed a lease from the village.

Mr. O'Brien stated that depending on the location a lease may need to be signed with the village.

Mr. Sbiral noted that the cases are separate and that they do not need to sign a lease with the Village if they are not located at the water tower.

Ms. Pokorski asked about the previous approval and why it had been approved by the Plan Commission and not the Zoning Board of Appeals.

Mr. Sbiral clarified the change in the Zoning Ordinance.

Mr. Julian asked if the petitioner decided to locate at the water tower if any action would be necessary by the ZBA.

Mr. Sbiral stated that no action was required by the ZBA unless modifications were needed to the Special Use Ordinance.

Ms. Moston asked if staff concurred with the applicant that the water tower was not structurally sufficient.

Mr. Sbiral said that this fact is not in dispute.

Ms. Moston questioned whether or not staff agreed with the petitioner's numbers relative to the cost for upgrading the water tower.

Mr. Sbiral said that this fact was still in question, but it would take at least \$15,000 initially followed by a study to determine what other upgrades were needed.

Mr. Julian questioned legitimacy of the petitioner's cost figures.

Mr. Sbiral clarified that part of those costs were for the equipment building that had been presented by the petitioner

Mr. Kopeny presented a document to Mr. Julian which specified cost to upgrade the water tank and build the equipment shed. Mr. Kopeny stated that the studies show that the tank fails structurally with no towers on it.

Mr. Julian asked why the Village was putting antennas on the water tower.

Mr. Kopeny said that the Village would have to pay a minimum of \$15,000. He indicated that more studies needed to be done to determine the exact cost of retro-fitting the water tower; however, AT&T no longer had support for the water tower site therefore they were not willing to pay for the upgrades. Mr. Kopeny stated that they had proposed that the Village pay for remediation on the water tower and recapture the costs as carriers went on it, but the Village had refused this suggestion.

Ms. Pokorski asked about how the intent to limit the number of approved sites was determined.

Mr. O'Brien said that discussions with Mr. Springer, the Village Attorney, had helped to determine the intent of co-location was to limit the number of sites.

Mr. Sbiral recited a portion of the Telecommunications Siting Policy.

Ms. Pokorski asked if the policy was in the Zoning Ordinance.

Mr. Sbiral said that it was a document referred to in Chapter 9 of the Zoning Ordinance.

Mr. Kopeny stated that AT&T would not be denying co-location at the Beese Park site. In fact, there was room for four carriers in the structure. Mr. Kopeny said that co-location will be easier because the cost will be more reasonable than at the water tower. Mr. Kopeny stated that it would take approximately \$164,000 more per carrier to locate at the water tower.

Mr. Julian thought that the document that the petitioners handed out stated that it cost \$164,000 per carrier total.

Mr. Kopeny said that the cost was \$165,000 more per carrier than an average site.

Mr. Julian said that the document did not state that; it said that the cost was \$164,000 which is substantially more than an average site.

Mr. Kopeny agreed and apologized for the confusion. Mr. Kopeny said an average site cost about \$70,000. The petitioner had also dropped the height of the pole from 160-170 feet to 140 feet to make it less obtrusive for the surrounding area. Mr. Kopeny said that negotiations would stop with the Village if this site were not approved. He stated that AT&T would look in the surrounding area for a suitable site. Mr. Kopeny said that the other option was to do nothing and continue to not provide coverage in this area of town; however, this was not a good option.

Mr. Henahan asked if one site was better than the other according to the ordinance.

Mr. Sbiral said since the water tower was already built it was the preferred site. Mr. Sbiral went on to say that any communications tower in this area would have to be less 150 feet in height by the Village ordinances. Mr. Sbiral stated that the primary reason staff was not in support of this petition was that since the water tower special use was enacted this site was now an acceptable site for telecommunications antennas. Mr. Sbiral said that the Village is obligated to use that site once the Public Safety equipment goes on the tower. Mr. Sbiral stated that approving a second site would spread out the towers and essentially provide two approved sites in the southern portion of the Village, which is contrary to the co-location policy. Mr. Sbiral said some work would have to be done to make the water tower site usable.

Mr. Henahan said that the Village wants to minimize sites and once the Beese Park is full carriers will go to the water tower.

Mr. Julian said that it was uncertain that more towers would be required. He stated that the water tower is a good location since it already existed. Mr. Julian felt that a monopole in Beese Park would not be aesthetically pleasing. Mr. Julian did not see any benefit to the Village in placing a cell tower in the park when an approved site already exists. Mr. Julian said that the petitioner should return to the ARC to get some cost alternatives.

Mr. Kopeny said that the water tower would look totally different once it was retro-fitted.

Mr. Julian stated that people cannot see Beese Park from the road, but people would be able to see the monopole.

Mr. Kopeny stated that in an emergency people often reach for their cell phones first and it was dangerous to not have coverage in this part of town.

Mr. Julian said that nobody was at the meeting to protest the lack of coverage.

Mr. Kopeny said that no one was at the meeting to protest the tower in Beese Park either.

Mr. Julian appreciated these concerns, but the ZBA's job was to make a decision on behalf of the Village.

Mr. Bober said that the petitioners were not only concerned with costs.

Mr. Julian said that cost was a main focus of the petitioner's argument.

Mr. Bober explained in detail what would need to be done to retro-fit the water tower and the tower would be less aesthetically pleasing after it was improved. He further noted that none of the carriers wanted the liability that went along with using the water tower site.

Ms. Pokorski asked if the liability could be handled contractually.

Mr. Kopeny said that since the Village built the water tank it was liable, but if AT&T did any retro-fitting, it would become liable for that work.

Mr. Sbiral said that the ZBA's job was to approve or disapprove the Beese Park site, not whether or not the current site was a good one or not. He said the other issues would be worked out after it was determined that the water tower was site for a cell tower for the southern portion of Barrington.

Mr. Kopeny disagreed with Mr. Sbiral because he felt staff's whole reason for denying the Beese Park was because there was already an acceptable site. Mr. Kopeny went on to state that the water tower site was not acceptable.

Ms. Pokorski asked Mr. Kopeny to explain why the water tower was not acceptable.

Mr. Kopeny said that there was no lease, a structure that fails as it stands, and there was no clear indication how much it will cost to upgrade the tower.

Ms. Pokorski clarified these points.

Mr. Kopeny said that there was no way to make the upgrades to the tower in order to make them acceptable to the residents of the Oaks of Barrington subdivision. He noted that the approved special use ordinance states that the water tower will only be used if it can structurally handle antennas.

Ms. Pokorski asked about the evidence that shows the neighbors did not want antennas on the water tower.

Mr. Kopeny stated that the objections primarily came at the ARC meetings.

Mr. Sbiral said that staff did not have any of these records on hand, but he recalled some objections to placing antennas on the water tower. Mr. Sbiral stated that the special use had been approved by the Plan Commission and the BOT. Mr. Sbiral discussed leasing negotiations with other companies.

Ms. Pokorski said that leasing status was not in the realm of the ZBA.

Ms. Moston asked how the Village of Barrington would be affected by this proposal.

Mr. Julian stated that the Village is affected by revenue and aesthetics.

Mr. Kopeny stated that a lease is generally \$300,000 over the course of a lease, which is a generally 30 years.

Mr. Bober stated that a lease generates about \$10,000 per month.

Mr. Bartlett said that this figure would be for all four carriers.

Mr. Henahan recalled a case where the money was given up front.

Mr. Kopeny said that AT&T was willing to go forward with the project at the water tower until other carriers pulled out of the deal and the water tower failed structurally. Mr. Kopeny said that cost was not a factor; support of the other carriers was the main reason.

Ms. Pokorski said that the ZBA's job was to look at the standards for approving a special use. She stated that these criteria did not look at cost or aesthetics to any great degree. Ms. Pokorski said that the ZBA should focus on the standards that staff did not feel was met.

Mr. Bartlett said that he agreed with Mr. Julian relative to the aesthetics of the park, but he was troubled that the Village had an approved site and built a tower that fails.

Ms. Perille said that petitioner was arguing that the approved site was not acceptable by the petitioner's standards. She agreed with Mr. Bartlett's concern about the tower.

Mr. Sbiral said the Village did not have to put money into the tower to put the Public Safety antennas on it.

Ms. Perille asked what the \$15,000 was for.

Mr. Sbiral stated that this cost was for putting carriers on the tank above and beyond public safety.

Mr. Julian stated that this was not unusual for carriers to upgrade towers, it was just unusual that the tower needed upgrades before the first carrier went on.

Mr. Sbiral said that he did not know how this mistake was made.

Mr. Julian said that the site was acceptable, but the structure was not. He felt that this was an important distinction to make. Mr. Julian said that if the site, not the structure, was acceptable, then it was wrong to approve another site.

Ms. Perille said it was unfair to put the onus on the carriers to repair the water tower.

Ms. Pokorski asked if the site was indeed acceptable.

Mr. Kopeny said that the site would not be acceptable because AT&T would have to go back through ARC. He stated the site was economically infeasible with one carrier.

Ms. Moston asked if cost was the main factor.

Mr. Kopeny said it always came down to cost. Mr. Kopeny explained that they often had to remediate the cost to put their antennas on structures.

Ms. Pokorski asked why the water tank was a problem.

Mr. Kopeny said it was a problem because it was not structurally strong enough to handle the carriers. Mr. Kopeny said that the site was not the issue because the water tank provided the same coverage as the Beese Park site. He said site to site neither one is better or worse for coverage from a radio frequency stand-point. Mr. Kopeny said that the costs and upsetting neighbors would be a problem. He stated that the tank would not look the same if the improvements were made to it. Mr. Kopeny was worried that upgrading the water tower would upset a whole new group of neighbors.

Mr. Kopeny said that although some people might think that the monopole in Beese Park was undesirable, there were 30-foot utility poles in the area. Mr. Kopeny said that the monopole would eventually disappear. He said that water tank is only appropriate if carriers can put their antennas on the water tank. Mr. Kopeny stated that Ordinance 99-2779 said that carriers could only go on the water tank if it structurally supported the antennas.

Mr. Sbiral said that this statement was not accurate, instead the Ordinance 99-2779 says that water tank would be built for four carriers and upgrades would be made as needed.

Mr. Kopeny said that it was his understanding also, but the water tower did not meet the structural standards for supporting the antennas. He said the site was a good site, but it was not acceptable based on the ordinance.

Ms. Perille asked if the additional costs prohibited other carriers from using this site.

Mr. Bober said that this was a factor along with the liability and the leasing terms that the Village was requesting.

Ms. Pokorski asked Mr. Sbiral if Mr. Bober's comments were accurate.

Mr. Sbiral stated that he had not been involved in the negotiations with the petitioner so the ZBA would have to believe Mr. Bober.

Mr. Bober reminded the ZBA that he was still under oath.

Mr. Kopeny discussed some of the options that they had presented to the Village.

Ms. Pokorski asked if the ZBA could ask for a legal opinion or a status report on the lease and liability issues from the Village Attorney. She felt that these issues went a long way in determining the acceptability of the water tower site.

Mr. Sbiral said that an opinion could be obtained. Mr. Sbiral stated that he had spoken to Mr. Springer that morning relative to Federal Law on communication tower siting and Mr. Springer had advised staff that as long as there were no coverage differences between sites then the Village had a right to deny a second site. He went on to say that it was up to the petitioner to work out the finances at this point. Mr. Sbiral said staff could get a clarification on the liability issues.

Ms. Pokorski said that staff's additional findings number four, five and six put the onus on the petitioner to provide 'verifiable' evidence relative to cost. Ms. Pokorski read these findings aloud.

Mr. Sbiral clarified finding number five. He said that staff really wanted to know the cost difference between the proposed building and other buildings that had been built in other places.

Mr. Julian asked Ms. Pokorski if she was suggesting a continuance.

There was a discussion on whether or not the ZBA should continue the case in order to wait for more information from staff and the petitioner.

The commission deliberated on what action should be taken at this meeting.

Mr. Julian said he was not prepared to approve a new site because an acceptable site, from a coverage stand-point, was already approved.

Ms. Pokorski said that she felt there were some outstanding issues and that the ZBA needed more information to make a decision.

Ms. Moston said that the Village had made a decision that it will not pay for the water tower to be retro-fitted. She stated that the petitioner was looking for a way to save on some of the costs associated with the water tower site. Ms. Moston did not think that aesthetics relative to the water tower were an issue because there were no plans showing what the effects of retro-fitting would be. She went on to say that since the water tower was part of the Oaks of Barrington planned development and that the residents needed to understand that the plans were in place before the development existed.

Ms. Moston had a hard time believing the high cost for the building.

Mr. Bartlett pointed out that the cost was for the entire building, not just AT&T's portion.

Mr. Bober explained what the costs of the building were.

Mr. Bartlett asked about the size of the full building.

Mr. Bober said it was 40 feet by 40 feet.

Ms. Moston said that the existing residential structure at Beese Park also helped to reduce carriers' costs at this site. She felt that this site only provided an advantage to the carriers and a loss to the Village. Ms. Moston said that she was against approving a new site because the monopole in Beese Park would be an aesthetic loss for the Village.

Mr. Bober asked what would happen if the petitioner went back to the Village to get a different building approved.

Ms. Moston stated that the ZBA had no control over the architecture of the building and could not predict what the ARC would say.

There was discussion about what would happen if the petitioner went back to ARC and Village to get the building modified.

Mr. Sbiral indicated that staff would be in favor of a different building if the petitioner chose to take this route. Mr. Sbiral indicated the process and the procedures that the petitioner would follow to modify the plans for the water tower site.

Mr. Henahan asked if the ZBA would have to approve a special use on the Beese Park site since it was listed in the 1997 Antenna Siting Policy.

Mr. Sbiral explained that a special use is needed for any telecommunications tower even if it is a listed site.

Mr. Henahan said that he did not have any objections to any more meetings.

Mr. Julian said that this course of action would be acceptable.

Mr. Bartlett asked why this was necessary.

Ms. Pokorski stated that three of the additional staff findings cited lack of 'verifiable evidence' and that more information was needed to make a decision. Ms. Pokorski also wished to obtain a legal opinion regarding the liability issues surrounding the water tank site.

Mr. Kopeny went over the concerns for more information. He said that there was no dispute over finding number four because the sites were indeed the same as far as coverage goes. Mr. Kopeny stated that he could provide further information relative to findings number five and number six. He did not know why he needed to get this information because the ZBA had said that costs were his problem not theirs.

Ms. Pokorski stated that since the petitioner did not provide staff any verifiable evidence relative to cost difference, staff could not evaluate those claims made by the petitioner.

Mr. Julian stated that the ZBA should not consider findings number 5 and number 6. He asked if findings number one through four would be acceptable to the commissioners.

Mr. Henahan stated that finding number one could be achieved by choosing one site over the other.

Mr. Julian reminded Mr. Henahan that there already was an approved site.

Mr. Sbiral said that in the Village's eyes the water tower site was already a cell tower site.

The ZBA deliberated over what findings should be included into the final recommendation. There were further discussions about the compelling reasons for putting up a cell tower.

There was a discussion about what the upgrades that were completed at the library water tower.

Ms. Perille said that the ZBA had to be prepared to say that cell phone coverage is not that important in this area of town if they deny this special use since the petitioners were saying that the approved site was not acceptable.

Mr. Julian disagreed because there was nobody to speak to the fact that there was poor coverage in the southern portions of the Village.

Ms. Moston stated that there was no benefit to the Village for expanding coverage by approving a second site.

There was a discussion about cell phone coverage and public safety relative to the tragedy at the Northwestern University football field.

Mr. Julian said that this was an unfair point.

Ms. Moston said that this issue was not a public safety issue.

Mr. Kopeny said that there are many gaps in cell phone coverage in that area of town.

Ms. Pokorski asked for a motion.

Mr. Kopeny said that they would just as soon take a denial so that they could move forward to the BOT.

MOTION: Mr. Julian moved to accept all of staff's findings of fact excluding additional findings number five and number six and recommend to deny ZBA 03-03 to the Village of Barrington Board of Trustees. Ms. Moston seconded the motion.

ROLL CALL VOTE:

Pokorski – no

Julian – yes

Kramer – absent

Moston – yes

Perille – yes

Bartlett – yes

Henehan – yes

Motion carries 5-1.

Mr. Sbiral explained what would happen at the BOT and when it would go to the BOT.

APPROVAL OF MINUTES

MOTION: Mr. Bartlett moved to approve minutes of Draft minutes of May 6, 2003 meeting.

Mr. Henehan seconded the motion. Voice vote noted all ayes.

PLANNER'S REPORT

Mr. O'Brien stated that there would be at least one case in front of the ZBA in July.

ADJOURNMENT

MOTION: Mr. Barlett moved to adjourn. Ms. Moston seconded the motion. Voice vote noted all ayes

Meeting adjourned. At 8:50 p.m.

Respectfully submitted,
Keith R. Sbiral, Senior Planner

Patricia Pokorski, Chairperson
Zoning Board of Appeals